THE HONOURABLE SRI JUSTICE N.V.RAMANA

W. P.No.8448 of 2007

Dated:23.04.2007

Between:

V. Brahmachary.

.....PETITIONER

AND

The Chief Administrative Officer, Nuclear Fuel Complex, ECIL Post, Hyderabad and another.

....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 8448 of 2007

O R D E R:

Questioning the action of the respondent-NFC in not releasing the HRA due to the petitioner from November, 2000, and in not evicting the unauthorized persons, who are occupying the quarter No.D-5/31 Type-II in the DAE Housing Colony, allotted to the petitioner, he filed the present writ petition.

2. The petitioner states that he was allotted No.D-5/31 Type-II, by the respondent-NFC. He lived therein along with his family for some time. But to some differences with his family members, the petitioner states that he made a representation dated 31.08.1999 requesting them to permit him to vacate the quarter and live separately. The petitioner states that the 1st respondent, having considered the representation, to permit him to vacate the stay away from the quarter. Thereafter, issued vacation memo dated 15.11.2000. In pursuance of the said memo, the petitioner states that he vacated the quarter on 17.11.2000 in the presence of the NFC security and handed over the key. The petitioner states that though he vacated the quarter and living separately, yet the respondents are not releasing his HRA and on the other hand, are

deducting the HRA from his salary, and on the other hand, the respondents are allowing his estranged family members to live in the quarter. He states that he submitted representation dated 12.01.2006, followed by reminder dated 11.03.2006, to settle his HRA dues, till date, no orders thereon have been passed by the respondents. Hence, he filed the present writ petition.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-NFC.

4. The learned counsel for the petitioner contended that even though the petitioner vacated the quarter after informing the respondent-NFC that there are differences between himself and his family members, who are presently living in the said quarter unauthorizedly, yet the respondents are continuing to deduct the HRA from his salary. He, thus, prays to direct the respondents to evict the unauthorized occupants from the said quarter and release his HRA dues.

5. The learned Standing Counsel for the respondent-NFC submitted that though the petitioner is living separately, he has not vacated the quarter and not handed over the vacant possession, for his family members are living therein, and as such, the question of releasing the HRA to the petitioner does not arise.

6. Admittedly, there are family disputes between the petitioner and his family members, which is subject matter of a criminal case pending against him. May be, the petitioner is living separately, but the fact remains, at present the quarter is in occupation of his estranged family members. The material placed before the Court would show that though the petitioner made

several representations requesting the respondent to release the HRA, but he was informed by the respondent through orders dated 19.01.2005 and 29.11.2005, that since he has not vacated and handed over the vacant possession of the quarter, and that since his family members are residing in the quarters, the HRA and licence fee and other allied charges, are being recovered from his salary. May be the petitioner is not living in the quarter, but since his estranged family members are living therein, it has to be held that the petitioner has not vacated the quarter and handed over the keys to the respondent. Unless and until, the petitioner vacates the quarter and hands over the vacant possession thereof to the respondent, he cannot be said to have vacated. Therefore, no exception can be taken to the action of the respondents in not paying HRA to the petitioner.

7. The Writ Petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V.RAMANA, J

Dated: 23.04.2007
sj